National Marine Fisheries Service
Northeast Regional Office
Attention: Peter D. Colosi
One Blackburn Drive
Gloucester, MA 01930-2298

New England Fishery Management Council
Attention: Paul Howard, Executive Director
50 Water Street
Newburyport, MA 01950

Dear Mr. Colosi and Mr. Howard:

In accordance with our responsibilities under Section 309 of the Clean Air Act and the National Environmental Policy Act (NEPA), the Environmental Protection Agency (EPA) has reviewed the National Marine Fisheries Service's (NMFS) Draft Environmental Impact Statement (DEIS) for Minimizing Impacts of the Atlantic Herring Fishery on Essential Fish Habitat (CEQ # 040320).

The DEIS evaluates the potential effects of the directed Atlantic herring commercial fishery on Essential Fish Habitat (EFH) for Atlantic herring and other federally-managed species in the Northeast region of the U.S., and evaluates alternatives to minimize to the extent practicable the adverse effects on EFH from herring fishing. EPA commends the efforts the National Marine Fisheries Service (NMFS) has undertaken to produce a more analytical and reader friendly NEPA document. The DEIS presents the issues, alternatives, and environmental analysis in a clear and concise format. Therefore, EPA has rated the DEIS as LO- Lack of Objections (see attached "Summary of EPA Rating System"). Although EPA has rated the DEIS as LO, we would like to suggest the following issues be clarified in the Final EIS.

1.) Purpose and Need Statement: The DEIS states that "the purpose and need of this DEIS is to minimize impacts of the herring fishery on EFH, not on protected species... (Page 202)." Please clarify NMFS' decision to not include indirect impacts to protected species and potential mitigation measures for protected species.

2.) EFH Vulnerability Matrix: EPA requests that the FEIS present (possibly in an appendix) the methodology utilized to produce Table 5.23.

3.) Section 6.0 Impacts of Non-Fishing Activities on Herring EFH. Oil and Gas Exploration/Development/Production and Marine Mining. Section 6.0 for all other activities contains a summary statement of predicted impacts of the activity on Herring EFH. The FEIS should address what the impacts of oil and gas exploration/development/production and marine mining are on Herring EFH.

4.) Alternatives Analysis: The analyses of Alternatives 2 and 3 include potential impacts to the human environment; Alternative 4 is the only alternative to analyze potential impacts to fishing communities. EPA requests that the FEIS provide the same level of analysis for each alternative to potentially impacted resources, if appropriate. If certain resources may not be impacted by an alternative, then the text should discuss in the introduction that certain resources are analyzed for certain alternatives and not for others based on the potential for impact from that particular alternative.

5.) Cumulative Effects: The cumulative effects analysis appears to focus on the effects of each action or group of actions' potential effects on a resource and then takes the aggregate of all the actions or group of actions effects on the resource to determine potential cumulative effects on the resource. The analysis defines the same spatial and temporal scale for all resources/Valued Ecosystem Component (VEC). The FEIS should explain how these are the appropriate temporal and spatial scales to determine cause and effect cumulative impacts to resources from all past, present, and reasonable foreseeable actions when combined with the proposed action.

We appreciate the opportunity to review this DEIS. We also look forward to reviewing the FEIS related to this project. The staff contact for this review is Matthew Harrington and he can be reached at (202) 564-7148.

Sincerely,

Anne Norton Miller
Director
Office of Federal Activities

Enclosures: Summary of Rating Definitions

cc: Steve Kokkinakis, NOAA Office of Strategic Planning
John Hansel, NMFS Office of Sustainable Fisheries
David Keys, NMFS Regional Administrator Office